STATE OF FLORIDA

COUNCIL ON COMMUNITY AFFAIRS

-REPORT-

HEARINGS ON MOBILE HOME PARK OPERATIONS IN FLORIDA

Adopted By The

Florida Council on Community Affairs

December 4, 1970

Tallahassee, Florida

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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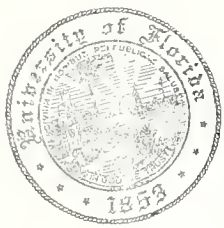

In response to a very large number of complaints by tenants of mobile home parks in Dade, Broward, Manatee, Pinellas, and other Florida counties, the Department of Community Affairs, through its Council on Community Affairs, held a series of hearings on the subject of park operations in Florida.

The Council acted pursuant to its powers under Section 20.18(3) (c), Florida Statutes which reads:

> The council on community affairs shall consult with and advise the secretary of community affairs, the governor, and the legislature regarding the affairs and problems of local government and other problems within the jurisdictional concern of the department, and shall conduct such studies of specific community problems as may be referred to the council by the governor, the legislature, or the secretary of community affairs. In conducting studies the council shall hold hearings throughout the state as are necessary.

The Council noted that there presently is no agency in the executive branch of government designed and equipped to study problems of the type encountered by mobile home tenants.

The purpose of the hearings was to probe into the substance of these complaints, determining whether or not remedies were justified, and if so, to recommend appropriate legislative and administrative responses at the State level of government.

The Council held the following hearings:

(1) August 5, 1970 - Broward County (Ft. Lauderdale)

(2) August 6, 1970 - Dade County (Miami)

(3) September 23, 1970 - Manatee County (Bradenton)

(4) September 24, 1970 - Pinellas County (St. Petersburg and Clearwater)

Public notices of the hearings were run in major newspapers in each county in which hearings were scheduled. Notices and invitations were addressed to all cities in each county in which hearings were held, as well as to the county commissioners of the affected county. In addition, each member of the legislative delegation of each county was invited to participate in the hearings. All affected state agencies were also asked to participate.

The Council was met by overflowing crowds of people at each hearing. Many expressed fear of reprisal if they testified. Despite this obstacle, the Council heard testimony from large numbers of tenants, park owners, mobile dealers, and representatives of the mobile home industry itself. The issue under deliberation quickly narrowed to a single question: How may mobile home park tenants be protected against abuses without simultaneously depriving the park owner protection for his investment?

In answer to that question the Council on Community Affairs hereby tenders its report on its findings and recommendations regarding mobile home park operations in Florida.

FINDINGS

Preliminarily, the Council notes that, with few exceptions, many complaints voiced by park tenants could be handled locally by the county government through the utilization of their home rule powers. The Council is of the opinion, however, that there is sufficient similarity in all problem areas associated with mobile home park operations throughout the State to justify State concern and action to correct abuses.

Specifically, the findings of the Council may be categorized into three main groupings: (1) zoning and lack of space; (2) practices by park management; (3) public policy.

1. Zoning and Lack of Space

Mobile home shipments to Florida for 1969 were up 29.2% over the previous year, resulting in an increasing demand for mobile home spaces. Zoning laws in most cities and many counties require that mobile homes must be placed in mobile home parks. Areas zoned for this purpose are limited, particularly in the more populous counties. Many of the tenants felt that zoning restrictions alone were responsible for the lack of development. They felt that the county commissioners were reluctant to zone additional land for mobile home parks due to an alleged lower tax return on these properties as opposed to other uses. This may be the case in Dade, but it is not applicable to Broward and other counties in Florida. Of the 3,935 acres of Broward County land now zoned for mobile home parks, less than half is being developed.

Part of the problem is the high cost of property, particularly in Dade and Broward Counties. Regulations relating to the density of mobile homes per acre mitigate against the development of the property as a mobile home park. The economics associated with the high cost of the land, plus the large capitol outlay required for development, dictate that the land ultimately be utilized for some other purpose. Apparently much of the undeveloped land zoned for mobile home parks is held for speculation.

The result is that there is an underdevelopment of mobile home parks in South Florida with a resultant lack of competition among the owners. A veritable monopolistic situation exists which lends itself to abuse of tenants by some mobile home park owners. It is this condition which serves as the common denominator for virtually every problem studied by the Council.

2. Management Practices

By far the most serious and pressing group of problems studied by the Council were those related to practices by some park managements against their tenants. These practices have effect because of the merger of two conditions: (1) scarsity of available space, and (2) Florida's laws relating to eviction.

With few exceptions, mobile home park owners will not enter into written leases with their tenants. Competitive conditions do not require it. The result is that under Florida Statutes, a tenancy at will is created, subjecting the tenant to eviction at the whim of the landlord. Statutorily, varying degrees of notice are required. Chapter 70-360 (SB-601) amended Section 83.241, Florida Statutes, to provide that in

cases involving mobile homes, the tenant must be given a 30 day notice between service and dispossession. It is too early to note the impact of this legislation on park operations.

Of more concern to the tenant is the reason for eviction. Mobile home parks in Florida are statutorily included in the category of transient rental accommodations. This was proper at the time of original enactment, and still is where overnight trailer parking is rented. A different set of conditions exists where a mobile home is involved. Modern day mobile homes, because of size, are not easily moved and it is rare that they are. They are owned by the tenant and represent a sizeable capital investment on his part. Yet, Florida law does not speak to the difference in types of property involved. The result is that an eviction law, (Section 501.141, Florida Statutes) designed to be used for motels, hotels, and overnight trailer camps, is applied to cases involving mobile homes, where at the very least a showing of cause should be required.

In summary, the fear of eviction, without the requirement of a valid reason, lends force and effect to practices by some park managers.

These practices are as follows:

1. Collusion of Dealers and Park Owners:

   Many mobile home parks will not rent to a tenant unless he buys a new mobile home from the owner or from a particular dealer. In some cases the park has a standing arrangement with a particular dealer to provide him with all available spaces

as they become empty. These are referred to as "closed parks." This practice severely restricts whatever small amount of competition which may be optional in a particular area.

2. The Charging of Excessive Fees:

The primary complaints involve excessive fees by mobile home park owners. These fees include:

(a) "entrance charges", ranging from $300 to as high as $2,500 for the privilege of moving a mobile home into the park. Park owners justify these fees as necessary to help defray the expense incurred in setting up the park, and establishing the various hook-ups for water, sewer, electricity, etc. Yet, in many instances these costs as well as tie-down fees, set-up fees, etc., are not covered by the "entrance charge."

(b) "exit fees", ranging widely from $100 upwards. These fees are charged by some park owners for allowing a trailer to move out of the park. Park owners justified this cost by stating that it cost them to clean the lot, make repairs, and get it ready for a future tenant. This fee in many cases is charged in excess of damage deposits made at the time of rental.

(c) charges for overnight guests. These charges are usually levied on overnight guests at the rate of $1 per night per head for adults, and $1 per month per head for each child domiciled in the mobile home. Extra charges are levied on each pet maintained if

allowed. The practice is a hold-over from the early days of the travel trailer court and present practices involving rentals of hotel and motel rooms. Owners justify the charges as serving as a restraint on the number of children and pets in the park.

(d) "dues" for social clubs varying in range from $2.50 per month upwards. The majority of complaints were not centered around the amount of the fee, but around the fact that clubs did not exist, or that membership was mandatory, not optional.

(e) commissions on sales of mobile homes. Because the park owner has the option of approving new tenants, many require a 10% commission on the purchase price of a trailer sold in their park. The fee is charged even though the park owner has no loan or other interest in the home that was sold. The Council did not hear nor could it discern from testimony presented, any logical or justifiable reason why the park owner explained that a mobile home is easier to sell when it is in a park, and therefore he is entitled to a portion of the sales price. Another claimed that some people buy mobile homes, place them in a park, and resell them later, all with the sole purpose of speculation. There was no proof that this practice is wide spread.

(f) resale of electricity. The Council heard wide-spread complaints about this practice. The Public Service Commission has outlawed the resale of electricity, effective 1971.

3. The Receipt of Kickbacks and Rebates on Essential Services:

Many tenants complained that any service or maintenance work they needed to have done to their trailer or lot had to be completed with certain authorized businesses that the park owner had designated. The complaints stem from the fact that these businesses charged higher rates and that the park owner received a 10% kickback on all work performed by these businesses within the park. The kickback is received on all work done, including that required by the park owner. The kickbacks were admitted by park owners and they attempted to justify this practice on the basis of uniformity in the work done. Some explained that it later cost them to keep up repairs on the work done previously. Therefore, they needed a percentage (kickback) to help off-set these later costs.

4. Arbitrary Enforcement of Park Rules:

The Council heard complaints that some park owners apply one set of rules to some tenants and different rules to other tenants. Along with this practice is the practice by some of changing rules overnight that greatly effect the welfare of the tenants and their feeling of security. Perhaps an even worse

practice is the failure to show the park tenants the rules when they are negotiating for a rental space, or not showing them a complete set of rules when they have been notified that they have broken certain rules. In effect, a new tenant may not know the rules to which he is subject, nor when or how they are changed. Many times rules have been imposed after tenants have moved in, which involve additional outlays of money by a tenant, which he has not expected. The tenant is caught because he has to pay these additional fees or charges, or he has to move, and due to the other limitations, moving is not a reasonable alternative if he is in disagreement with the new rules.

5. Failure to Disclose Costs:

Along with the practice of not revealing park rules, there exists a related poor management practice in that many fail to completely disclose exactly what the tenant is paying for, both for this entrance fee and his lot rental. Tenants many times move in thinking they have paid for certain services and costs, and later find that additional costs are involved in order to pay for services he thought were already paid. Because each park operates differently, a tenant cannot be sure he is paying for the same items as he did in a previous park, because a park owner may label services differently.

Public Policy:

The Council noted a number of problems of an administrative and governmental nature affecting mobile home owners. Complaints

were received regarding the failure of health departments to adequately inspect and enforce sanitary conditions in mobile home parks. One reason offered is that many counties do not feel responsibility for mobile home dwellers because they "don't pay taxes." Thus, in a run of priorities established by already overworked health departments, mobile home parks may rank low.

The Council heard complaints by some local government officials regarding the State license fee on mobile homes. Their contention is that the fee should be split with local governmental units for services provided by them to mobile homes. Florida Statutes, Section 320.081, provides for collection of license fees for mobile homes. $15 of the fee is retained by the State, with the remainder being divided evenly between the Board of County Commissioners and the School Board of the county issuing the license.

The Council heard a number of complaints regarding the construction and warranty of mobile homes sold in Florida. The Council found that there is a need for enforceable building standards for mobile home construction in this State and for those shipped into Florida for resale. The present statutes on the subject are inadequate and unenforceable. Specifically, the Council is of the opinion and strongly recommends that by law, all mobile homes in Florida should be required to be built so as to accommodate tie-downs, and that tie-downs should be mandatory throughout the State. The resulting saving in lives due to wind or hurricane damage would show the wisdom of this course of action.

The State of Florida is in the midst of a housing squeeze. Construction costs are increasing, and interest rates are high, yet the population continues to grow. Mobile homes, and indeed factory-built housing is general, are being recognized as an integral part of this country's housing supply.

The Federal Housing Act of 1969 provides, for the first time, FHA insurance on loans up to $10,000, for up to 12 years for purchasing mobile homes to be used as the principal place of residence by the owner. In addition, FHA insured mortgages for mobile home parks were increased from $1,800 to $2,500 per space and from $500,000 to $1,000,000 per total project. The same recognition has not found its way to the State level.

The Council finds that local ordinances and building codes should be strengthened to cope effectively with the fast-growing mobile home and factory-built housing industry in the State of Florida.

RECOMMENDATIONS

The Council has very carefully weighed the complaints received at its hearings around the State. Upon careful consideration and reflection, the Council is of the opinion that abuses do exist which are amenable to correction at the state level of government through administrative and legislative action.

1. The Council recommends that the Legislature of the State recognize statutorily that a hybrid type of property relationship exists between the mobile home owner and the park owner. That relationship is not simply one of landlord and tenant, nor is it merely one of innkeeper and guest. Each has basic property rights which must be accommodated one with the other. The Council strongly urges that a separate and distinct mobile home act be enacted which defines this relationship. Further, the Council recommends that the State's tax laws, its regulatory laws on overnight accommodations, and its property laws (particularly those governing evictions) be altered to accommodate this newly-defined property relationship. This legislation would have the effect of negating attempts to fit square pegs into round holes.

The thinking behind this legislative proposal and the relationships it would produce underlies virtually all of the legislative recommendation.

Overnight trailer campsites and parks need not be affected by these proposed legislative changes.

2. The Council recommends that further changes be made in Florida's laws dealing with evictions, Chapter 83, Florida Statutes. Specifically, the Council feels that in the case of mobile home tenants that a showing of cause should be required before a tenant may be evicted.

Chapter 70-360 requires that where a tenancy is terminated for reasons other than non-payment of rent, the tenant shall be entitled to a refund on a pro-rata basis of all fees paid. The Council recommends that this provision be expanded to also include a refund, less depreciation allowances, on all capital improvements made by the tenant to the property of the park owner. This would apply only to permanent fixtures which have materially enhanced the value of the park owner's property.

3. The Council recommends enactment of appropriate legislation to require that the park owner fully disclose in writing all fees, charges, and assessments, prior to renting to a mobile home owner. The act should provide that no fee, charge, or assessment so disclosed may be increased by the park owner without 90 days notice to the tenant. Failure on the part of the park owner to fully disclose all charges connected with the rental would prevent his collected that charge from the tenant; refusal by the tenant to pay any undisclosed fee could not be used by the owner as a cause for evictions in any court of law. This would not prevent the owner from imposing any additional fee, charge, or assessment after 90 days notice to the tenant. The Council further recommends that such legislation require that the tenant receive copies of all rules and

regulations governing the operation of the park at the time of rental, and that he acknowledge in writing the receipt of same. He should not be held accountable for any rules or regulations of which he was not duly apprised. Once such rules and regulations are acknowledged by the tenant, failure on his part to heed their provisions should be considered cause for eviction.

4. The Council recommends that the Legislature prohibit the practice by park owners of changing commissions on the sale of mobile homes by tenants in their parks where the park owner has no interest in the mobile home being sold. It should not disturb the basic right of the park owner to approve or disapprove of persons moving into his park. But the exercise of right should not be predicated upon unfair monetary gain on the part of the park owner. The act should prescribe that failure to pay such a commission upon demand shall not be a cause for eviction in any court of competent jurisdiction in Florida.

5. The Council recommends that appropriate legislation be adopted to provide for construction standards for mobile homes with adequate inspection and enforcement procedures included. Such provisions should be made a part of a general act relating to standards for factory-built housing. Under such proposed legislation, the Department of Community Affairs, through appropriate hearings and review, would promulgate minimum standards of construction for factory-built housing in Florida. Inspection and enforcement would be effected via contractual arrangements with local governments. Such

standards would insure uniform quality of construction throughout the State and help reduce misgivings evidenced by local governments regarding mobile home quality of construction.

6. The Council, as previously noted, strongly recommends that by Statute, all mobile homes constructed in Florida or shipped to Florida for resale be required to be constructed to accommodate tie-downs, and that tie-downs be made mandatory on all mobile homes in Florida.

7. The Council recommends that local governments require that where land is rezoned for mobile home parks, and development is not begun within a specified time period, the land revert to its previous zoning classification. This practice would discourage the holding of land zoned for mobile homes merely for the purpose of speculation.

8. The Council recommends that the Legislature proscribe the practice of charging entrance fees unless those fees are associated with a cost actually incurred by a park owner and are so identified at the time of rental. Such legislation should make illegal the "splitting" of such fees with another, and making it a misdemeanor to do so.

9. The Council recommends that Chapter 320, Florida Statutes, be amended to provide that license fees on mobile homes be abolished.

Instead of licensing mobile homes under the category of "vehicle", the Council strongly recommends that for taxation purposes that these housing accommodations be treated the same as any other real property.

10. The Council recommends that the Legislature request the Department of Revenue or some other appropriate State agency to make a thorough study of taxes paid by mobile home owners in Florida, either directly or indirectly, and report its findings back to the Legislature.

Conclusion

The Council requests the Department of Community Affairs to prepare a package of legislation to effectuate the Council's recommendations and to work vigorously for their enactment in the 1971 Session of the Florida Legislature.